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AUDIO SERVICES
DIVISION
SEP 18 1995

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Amendment of Section 73.202)	MM Docket No. 95-122
FM Table of Assignments)	RM-8668
(Lexington and Henry, Tennessee))	

To: Chief, Policy and Rules Division

DOCKET FILE COPY ORIGINAL

COUNTERPROPOSAL

Richard Bennett by his undersigned counsel, pursuant to Section 1.415 of the Commission's Rules, herewith submits his Counterproposal in response to the Commission's Notice of Proposed Rulemaking (DA 95-1605), released July 26, 1995, respectfully requesting the Commission to allot FM Channel 243A to Henry, Tennessee, in lieu of Lexington, Tennessee, thereby amending Section 73.202 of the Commission's Rules, FM Table of Allotments, as follows:

City	Channel No.
Henry, Tennessee	243A

In support whereof the following is shown:

1. As reflected in the attached technical exhibits, prepared by Roger Wright of Prospect Communications, the requested allotment of FM Channel 243A at Henry, Tennessee, can be made in full compliance with all applicable minimum mileage

separation and other technical requirements under the Commission's Rules, including city coverage requirements. Further, the requested allotment can be made without requiring any changes or substitutions in the FM Table of Allotments and without conflict to any other known proposed rulemaking.

2. The allotment of Channel 243A at Henry, Tennessee, will provide that community with its first local service. According to the 1990 Census, Henry, Tennessee, had a population of 317, inside the city limits. In addition to being listed in the Census, Henry, Tennessee, is incorporated, has a Mayor/Board of Aldermen form of government, a U.S. Post Office and its own zip code (38231). Henry also provides essential services to its citizens through its own police force, fire department and water system. In addition Henry has a number of businesses, both retail and industrial, located in or otherwise identified with Henry, as well as churches and civic organizations. Two schools are located in Henry: Henry Elementary, a public school serving grades K-8, and Lakeside Christian Academy, a private school. The public elementary school is operated by Henry County and high school students from Henry attend the consolidated County High School. Therefore, based upon its incorporated status and the other attributes of community identity set forth above, it may be concluded that Henry, Tennessee, is a substantial community, currently without local AM or FM transmission service, which would receive its first service if the proposal advanced herein were to be adopted by the Commission.

3. Although the allotment of Channel 243A to Henry, Tennessee, is technically incompatible with the allotment of the same Channel to Lexington, Tennessee, as proposed in the Notice of Proposed Rulemaking (DA 95-1605), the requested allotment of Channel 243A to Henry, Tennessee, is entitled to be accorded higher priority under the Commission's established allotment criteria. In that regard, as noted above, the allotment of Channel 243A to Henry would provide that community with its first local service. By contrast, as reflected at paragraph 1 of the Notice of Proposed Rulemaking (DA 95-1605), the allotment of Channel 243A to Lexington, Tennessee, would result in the provision of a second FM service to that community. Furthermore, inasmuch as Lexington is currently served by WDXL(AM)(1490 kHz), the proposed allotment of Channel 243A to Lexington would provide that community with its third local service. It is well established that the provision of a first local service is entitled to higher allotment priority than the provision of a third local service. ^{1/} Accordingly, inasmuch as Channel 243A cannot be allotted to both Lexington and Henry, the proposal advanced herein to assign Channel 243A to Henry, Tennessee, must be given priority and adopted, pursuant to the Commission's well established allotment priorities.

1. The allotment priorities are: (1) first fulltime aural service, (2) second fulltime aural service, (3) first local service, and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3). Revision of FM Assignment Policies and Procedures, 90 FCC2d 88 (1982).

4. Upon issuance of an Order, implementing the requested Channel allotment, Richard Bennett (or an entity in which he is a voting principal) will promptly prepare and file the necessary application for construction permit with the Commission and, having obtained authorization to do so, will promptly construct the facilities requested.

5. Therefore, inasmuch as the proposed allotment would allow for provision of first local service to Henry, Tennessee, and can be implemented in compliance with Commission Rules, Richard Bennett urges the Commission to allot FM Channel 243A to Henry, Tennessee, in lieu of Lexington, Tennessee, as proposed in the Notice of Proposed Rulemaking (DA 95-1605).

WHEREFORE, for the foregoing reasons, the Commission should amend Section 73.202 of its Rules by allotting FM Channel 243A to Henry, Tennessee.

Respectfully Submitted,

RICHARD BENNETT

By: 

Timothy K. Brady
His Attorney


P.O. Box 986
Brentwood, TN 37027-0986
(615) 371-9367

September 18, 1995

THIS EXHIBIT HAS BEEN PREPARED AT THE REQUEST OF RICHARD BENNETT TO ACCOMPANY AN ALLOCATION STUDY FOR A PROPOSED NEW FM STATION AT HENRY, TENNESSEE.

AS REFLECTED IN THE ATTACHED EXHIBITS, CHANNEL 243 MEETS ALL TECHNICAL AND MILEAGE SEPARATIONS NECESSARY FOR THE ALLOTMENT AND MEETS THE REQUIRED FIELD STRENGTH OF 3.16 mV/m (70 dBu) OVER THE PRINCIPAL CITY OF HENRY, TENNESSEE.

THIS REPORT HAS BEEN PREPARED BY PROSPECT COMMUNICATIONS WHOSE QUALIFICATIONS AND SERVICES HAVE BEEN PREVIOUSLY BEEN ACCEPTED BY THE COMMISSION. THE REPORT UTILIZES THE LATEST FCC DATA AVAILABLE AT THE TIME OF PREPARATION AND IT IS BELIEVED TO BE ACCURATE IN ALL MATTERS.



ROGER WRIGHT
9-12-95

DATE

36 10 07 N.
88 25 13 W.

Class A
Current rules spacings
Channel 243 - 96.5 MHz

Search Date
08-03-95

Call	Ch#	City	State	Bear'	Dist'	R' qrd	Margin
>AD243	243A	Lexington	TN	173.0	49.50	115.0	-65.50 *
>ALOPEN	240A	Camden	TN	113.4	31.16	31.0	0.16 *
>WRAJFM	243C2	Anna	IL	323.4	166.26	166.0	0.26 *
KHLS	242C1	Blytheville	AR	258.3	133.57	133.0	0.57 *
WNKXFM	244A	Centerville	TN	116.2	85.73	72.0	13.73
WRMX.C	242C1	Murfreesboro	TN	85.7	147.20	133.0	14.20
WDDJ	245C1	Paducah	KY	350.1	104.76	75.0	29.76
WMOD	244A	Bolivar	TN	202.7	110.47	72.0	38.47
DE244	244A	Bolivar	TN	202.7	110.47	72.0	38.47
WRMX	242C1	Murfreesboro	TN	93.0	178.56	133.0	45.56

Command -----

TERRAIN AND COUNTOUR DATA

EPR = 6 KW

FM 2-6 TABLES

AZIMUTH DEG T.	AVE. ELEV. 3 to 16 KM METERS AMSL	EFFECTIVE ANTENNA HEIGHT METERS AAT	ERP (dbk)	F (50-50) DISTANCE TO 70 DBU CONTOUR KM	F (50-50) DISTANCE TO 60 DBU CONTOUR KM
0	146.0	92.8	7.782	15.5	27.3
45	150.8	88.0	7.782	15.0	26.6
90	138.5	100.3	7.782	16.2	28.3
135	141.7	97.1	7.782	15.9	27.9
180	133.9	104.9	7.782	16.6	28.9
225	128.5	110.3	7.782	17.1	29.6
270	131.1	107.7	7.782	16.9	29.3
315	139.9	98.9	7.782	16.1	28.1

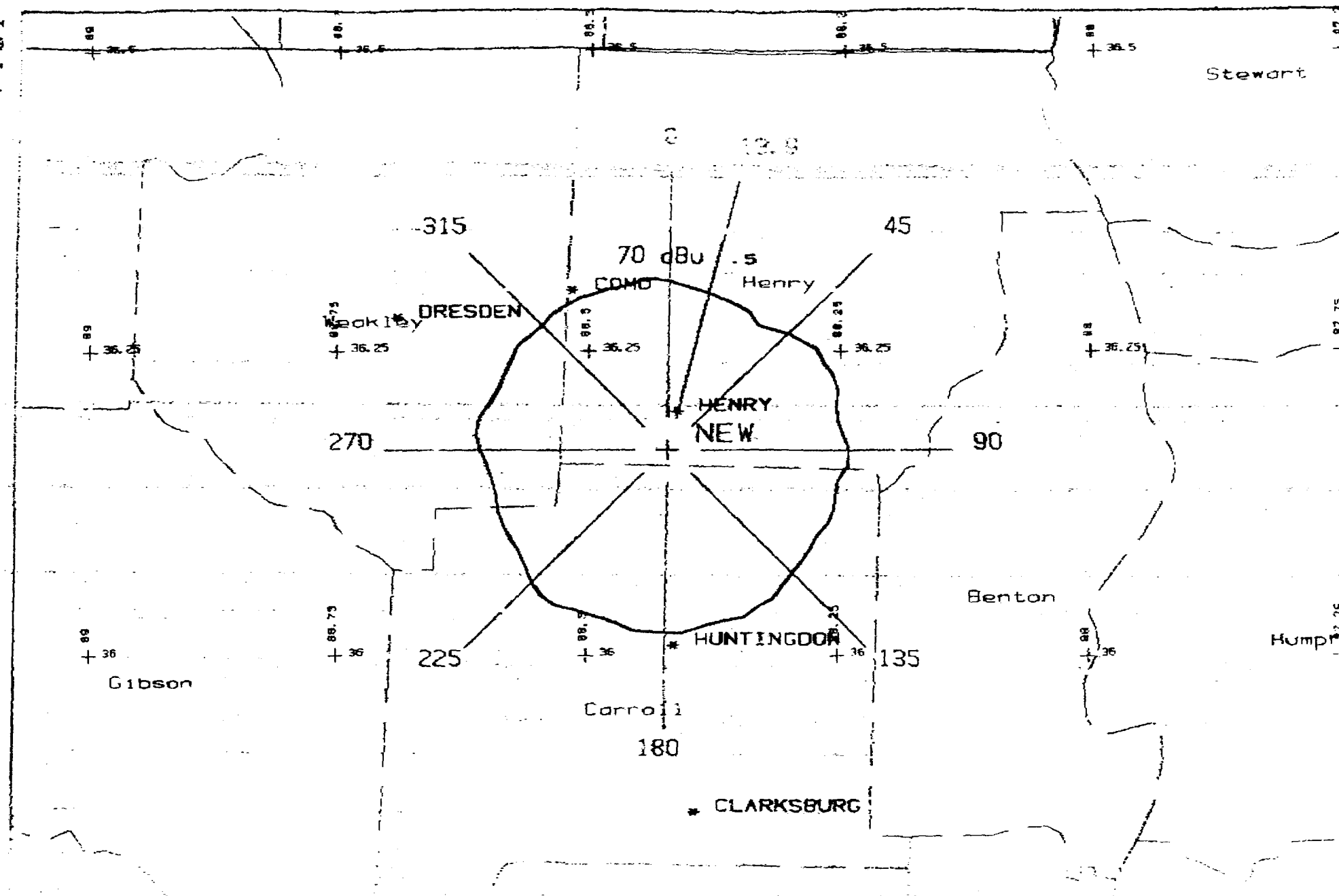
AVE. = 138.8 M 100.0 M

ANTENNA RADIATION CENTER AMSL = 238.8 M

GEOGRAPHIC CO-ORDINATES:

NORTH LATITUDE 36 10 07

WEST LONGITUDE 88 25 13

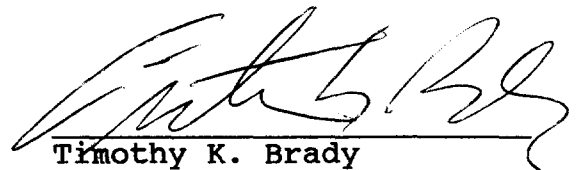


<p>Scale in km</p>	<p>NEW 243 6kW N. Lat. 36 10 07 W. Lng. 88 25 13</p>	<p>SEPT. - 09/95</p>
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CERTIFICATE OF SERVICE

I, Timothy K. Brady, hereby certify that I have, this
14th day of September, 1995, served a copy of the foregoing
Counterproposal by First Class mail, postage prepaid upon the
following:

Dennis P. Corbett, Esq.
Leventhal, Senter & Lerman
2000 K Street, NW, Suite 600
Washington, DC 10006-1809
(Counsel for Floriplex, Inc.)



Timothy K. Brady